

## **Legislative Update 2019: Nursing Home Administrators Board**

### **Public Chapter 61**

This act states that an entity responsible for an AED program is immune from civil liability for personal injury caused by maintenance or use of an AED if such conduct does not rise to the level of willful or wanton misconduct or gross negligence.

This act took effect on March 28, 2019.

### **Public Chapter 124**

This act makes a variety of small changes and additions to the TN Together opioid initiative put in place in 2018. One addition is allowing access to CSMD data to a healthcare practitioner under review by a quality improvement committee (QIC), as well as to the QIC, if the information is furnished by a healthcare practitioner who is the subject of the review by the QIC.

The requirement for e-prescribing of all schedule II substances by January 1, 2020 has been delayed to January 1, 2021 and is modified to require all schedule II through V prescriptions to be e-prescribed except under certain circumstances. The law also requires all pharmacy dispensing software vendors operating in the state to update their systems to allow for partial filling of controlled substances.

Definitions are given by this act to the terms palliative care, severe burn and major physical trauma. Along with its new definition, palliative care has now joined severe burn and major physical trauma as an exception to the opioid dosage limits otherwise required under TN Together.

An unintended consequence of last year's Public Chapter 1039 was on cough syrup. This act establishes that the law does not apply to opioids approved by the FDA to treat upper respiratory symptoms or cough, but limits such cough syrup to a 14 day supply.

Also changed from last year's act is the requirement to partial fill. Partial filling of opioids is now permissive.

Finally, the opioid limits under have been simplified from the previous year's act. The twenty day supply and morphine milligram equivalent limit has been eliminated. Three day and ten day requirements remain the same. Instances such as more than minimally invasive surgery, which previously fell under the twenty day provision, now can be treated under the limits of the thirty day category.



This act took effect on April 9, 2019.

#### **Public Chapter 144**

This act amends the Prevention of Youth Access to Tobacco and Vapor Products Act by limiting the places in which one may use vapor products. The act defines vapor products and prohibits the use of such products in a number of locations including child care centers, group care homes, healthcare facilities (excluding nursing homes), residential treatment facilities, school grounds, and several other areas. Several locations have specific exceptions set forth in the statute.

This act took effect on April 17, 2019.

#### **Public Chapter 195**

The majority of this act pertains to boards governed by the Department of Commerce and Insurance. One small section applies to the health related boards. Currently, the health related boards have an expedited licensure process for military members and their spouses. Previously, a spouse of an active military member had to leave active employment to be eligible for this expedited process. This act removes that requirement. This section applies to all health related boards. The Commissioner of Health is permitted to promulgate rules, but rules are not needed to implement the act.

This act takes effect July 1, 2019.

#### **Public Chapter 229**

This act allows healthcare professionals to accept goods or services as payment in direct exchange of barter for healthcare services. Bartering is only permissible if the patient to whom services are provided is not covered by health insurance. All barter accepted by a healthcare professional must be submitted to the IRS annually. This act does not apply to healthcare services provided at a pain management clinic.

This act took effect April 30, 2019.

### **Public Chapter 243**

This act mandates that an agency that requires a person applying for a license to engage in an occupation, trade, or profession in this state to take an examination must provide appropriate accommodations in accordance with the Americans with Disabilities Act (ADA). Any state agency that administers a required examination for licensure (except for examinations required by federal law) shall promulgate rules in regard to eligibility criteria. This legislation was introduced to assist individuals with dyslexia.

This act took effect May 2, 2019 for the purpose of promulgating rules, and for all other purposes, takes effect July 1, 2020.

### **Public Chapter 245**

This act prohibits any person who is not licensed or certified by the Board of Nursing from using the title “nurse” or any other title that implies that the person is a practicing nurse. The Board is empowered to petition any circuit or chancery court having jurisdiction to enjoin: (1) a person attempting to practice or practicing nursing without a valid license; (2) a licensee found guilty of any of the acts listed in 63-7-115; or (3) any person using the title “nurse” who does not possess valid license or certificate from the Board.

This act took effect May 2, 2019.

### **Public Chapter 324**

This act authorizes any existing licensed and operating nursing home to relocate 62 or fewer of its licensed beds to a new separate licensed nursing home if certain conditions are satisfied, including obtaining a certificate of need through the Health Services and Development Agency. There is only one nursing home that currently meets these conditions (in East Tennessee).

This act takes effect July 1, 2019.

### **Public Chapter 423**

This act extends the nursing home assessment fee through June 30, 2020. The act will assess 4.75% of each included nursing facility’s annual coverage assessment base for fiscal year 2020.

This act will take effect July 1, 2019.

### **Public Chapter 447**

This act permits law enforcement agencies to subpoena materials and documents pertaining to an investigation conducted by the Department of Health prior to formal disciplinary charges being filed against the provider. This bill was brought by the Tennessee Bureau of Investigation.

This act went into effect May 22, 2019.

### **Public Chapter 474**

This act is known as the “Elderly and Vulnerable Adult Protection Act of 2019.” The act adds definitions of abuse, sexual exploitation, financial exploitation, and neglect. Convictions for the preceding offences are required to be reported to the Abuse Registry. Penalties for these offenses are also increased for aggravated abuse of an elderly or vulnerable adult. In addition, this act requires any relative conservator, agent, employee of the Tennessee Commission on Aging and Disability, or guardian ad litem to be mandatory reporters if they have knowledge that an elderly or vulnerable adult is a victim of any of the offenses listed above.

This act became effective May 24, 2019 for the purpose of promulgating rules. For all other purposes, this act will go into effect January 1, 2020.

### **\*Insurance Legislation\***

Multiple acts were passed during the 2019 legislative session that affect healthcare plans and insurance and create certain obligations on providers and facilities. A few pieces of legislation include [Public Chapter 407](#) and [Public Chapter 239](#). Healthcare providers and facilities are encouraged to review these to make sure they meet their statutory obligations.